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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,711	09/22/2003	Karl-Heinz Aleksander Ostoja Starzewski	PO7795/LeA 36,276	1415
34947	7590	07/14/2005	EXAMINER	
LANXESS CORPORATION			LU, C CAIXIA	
111 RIDC PARK WEST DRIVE			ART UNIT	
PITTSBURGH, PA 15275-1112			PAPER NUMBER	

1713

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,711

Applicant(s)

STARZEWSKI ET AL.

Examiner

Caixia Lu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 9, 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 10-18 and 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: insert the contents of claims 21 -26 to the specification to provide proper antecedences for the claims.

Claim Rejections - 35 USC § 103

3. Claims 8, 10-18 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostoja-Starzewski et al. (US 6,353,064, hereinafter referred as Ostoja) for the same rationale as set forth in the previous Office action mailed January 25, 2005.

Response to Arguments

4. Applicant's arguments filed May 6, 2005 have been considered. The rejections under 35 U.S.C. 112, 1st and 2nd paragraphs are withdrawn in view of applicants' Amendment and Remarks. However, the rejections under 35 U.S.C. 103(a) over Ostoja are maintained.

Applicants states that the catalysts of the instant claims provide high molecular weights and further submit "such high molar masses can only be obtained when the polymerization process is carried out in the presence of special transition metal compound having special ligands and using a transition metal compound with at least

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one alkyl- or aryl- group on at least one acceptor atom as presently claimed". However, it is the examiner position that average viscosity molecular weight M_v of 500 kg/mol is not considered as an extraordinary high molecular weight in the art of polyolefins prepared in the presence of metallocene catalyst, and such a molecular weight can be achieved by using alumoxane as the cocatalyst with Ostoja's metallocene complex as shown in the previous Office action.

Applicants have provided Galimberti et al. (Macromolecules 1999, 32, 258-263) to demonstrate that alumoxane lower the molecular weight of olefin copolymer. Galimberti only demonstrates that methylalumoxane gives rise to higher polymerization activities and lower molecular masses of the copolymer compared to tetraisoctylalumoxane and tetraisobutylalumoxane. methylalumoxane, tetraisoctylalumoxane and tetraisobutylalumoxane all are alumoxanes. Based on Galimberti's data, one cannot conclude that alumoxane gives rise to higher polymerization activities and lower molecular masses of the copolymer compared to the polymerization process wherein no alumoxane is used.

Since obviousness rejections over Ostoja are still deemed to be proper, the burden is on the applicants to show that when alumoxane such as methylalumoxane is used in Ostoja's olefin polymerization process, the polyolefins produced do not have a viscosity molecular weight of more than 500 kg/mol.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

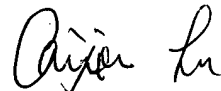
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.



Caixia Lu, Ph. D.
Primary Examiner
July 10, 2005